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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,130	09/17/2003	Philippe Queval	825-02-611	3468

7590 06/27/2005
Leo H. McCormick Jr/
2112 Mishawaka Avenue
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South Bend, IN 46634

EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,130

Applicant(s)

QUEVAL ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on 9/11/02. It is noted, however, that applicant has not filed a certified copy of the French application as required by 35 U.S.C. 119(b).
2. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in France on 9/11/02. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

Drawings

3. The drawings are objected to because figure 5 should not be labeled prior art since it is only the bleed screw 14 that is conventional and not the entire figure. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

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must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: in line 1 of paragraph [0027] the tapped hole is designated with element number "5" but was previously designated with number "3", in line 2 of paragraph [0027] the orifice is designated with the number "3" but was previously designated with the number "5", in line 1 of paragraph [0031] element "1" is used to designate the hydraulic receiver but was previously used to designate the cylinder, inline 2 of paragraph [0033] "11" is used to designate the set screw but was previously used to designate the cap head.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 12. The phrase "inserting a bleed screw...to restrict the flow of liquid and any air from said bore" in lines 2-3 of the claim is unclear in light of the drawings since it appears that the narrowing the first orifice with the axial duct of the bleed screw would assist in restricting the flow of liquid and air from the first orifice. Clarification is required.

Re: claim 13. The phrase "a solid set screw" in line 3 of claim 13 is indefinite. It is unclear to the Examiner whether the solid set screw in claim 13 is intended to be the same or different from that of claim 11. If Applicant intends for the set screws to be the same, Examiner recommends the use of such language as --said set screw-- or --the set screw--.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2146545 to Leighton in view of US Patent 4503678 to Wimbush.

Leighton shows in figure 2 a process for initially filling a bore 13 in a housing 10 of a hydraulic apparatus in a circuit with liquid and thereafter maintaining a level of liquid in the circuit comprising the steps of sealing a first orifice shown surrounding element 36 for a first duct 35 in the housing and connected to the bore 13 with a solid set screw 36, connecting the bore through a second orifice surrounding element 25 for a second duct

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27, connecting the second orifice to hydraulic liquid under pressure to fill the bore and circuit with liquid as disclosed in pg. 1 lines 48-53, and thereafter removing the solid set screw from the first orifice as disclosed in pg. 2 lines 63-64 to allow liquid and any air remaining in the bore to flow from the bore.

Leighton lacks the limitation of connecting the bore to a source of vacuum through the second orifice for the second duct to remove air from the bore, the limitation of isolating the second orifice from the vacuum, or the limitation of connecting the second orifice specifically to a reservoir of the hydraulic liquid.

Wimbush teaches in figure 4 the use of a bore 32 being connected to a source of vacuum 55 to remove air from the bore, isolating the second orifice of the bore from the vacuum source as described in col. 3 lines 27-29 and the limitation of hydraulic fluid being from a reservoir 56.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the filling of the hydraulic apparatus of Leighton to have included connecting and isolating the bore to and from a vacuum, as taught by Wimbush, in order to provide a means of filling and bleeding fluid to encourage the exclusion of air.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hydraulic apparatus of Leighton to have included a reservoir, as taught by Wimbush, in order to provide a means of storing a supply of liquid for later distribution.

9. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2146545 to Leighton in view of US Patent 4503678 to Wimbush as applied to claim 11 above and further in view of admitted prior art.

Re: claim 12. Leighton, as modified, teach on pg. 2 line 63-65 of Leighton the limitation of inserting a suitable conduit to be connected to the first orifice, but lacks the limitation of the suitable conduit being a bleed screw having an axial duct therein.

The admitted prior art shown in figure 5 of the instant application teaches the use of a suitable conduit in the form a bleed screw 14 having an axial duct 15 therein.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the suitable conduit of Leighton, as modified, to have included a bleed screw with an axial duct therein, as taught by the admitted prior art, to provide a means of allowing limited passage of fluid out of the first orifice.

Re: claim 13. Leighton, as modified, teach in pg. 2 lines 5-7 of Leighton the limitation of removing the suitable conduit from the first orifice and inserting the solid set screw in the first orifice to seal the bore from the surrounding environment.

Response to Arguments

10. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 20, 2005

Melody M. Burch
6/20/05